

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 10TH DAY OF AUGUST, 1999

BEFORE

THE HON'BLE MR.JUSTICE HARI NATH TILHARI

CIVIL REVISION PETITION NUMBER 1011/1996

Between

K.M. Devaiah,
S/o Late Nachaiah,
Age 55 years, Ex. Teacher,
Hysodlur Village,
Hudikeri Post,
South Kodagu.

... PETITIONER

(By Adv.Sri.E.B.Mandappa)

And

1. The President,
Hathur Educational Society,
Hathur, South Kodagu.

2. The State of Karnataka
by its Secretary,
Education Department,
M.S. Building,
Bangalore-1.

3. The Deputy Director of
Public Instruction,
Madikeri,
Kodagu District.

4. The Prl. District Judge &
Educational Appellate Tri-
bunal, Madikeri.
(R-4 is deleted as per
Court Order dated 30-5-1996)

... RESPONDENTS

(By Adv.Sri.A.S.Ponnanna for
A.K.Subbaiah for respondent-1
& V.Jayaram, G.A. for R-2 and
R-3)

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This is a civil revision petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the judgment and order dated 3-1-1996 passed by the Principal District Judge & Educational Appellate Tribunal, Madikeri, in EAT No. 9 of 1992 and grant such other reliefs.

The petition coming on for hearing this day, the Court made the following ;

O R D E R

This revision petition is directed against the judgment and order dated 3-1-1996 passed by the Principal District Judge and Educational Appellate Tribunal, Madikeri, in the proceedings under Section 8 of the Karnataka Private Educational Institutions (Discipline and Control) Act, 1975 dismissing the appeal of the appellant (petitioner herein) from the order dated 25-7-1992 served on the petitioner dismissing him from the service.

The Tribunal considered the matter and found that the material on record clearly reveals that the petitioner who has been a Graduate Assistant Teacher in Hathur High School, Bangalore. On the date of the incident i.e., 28-2-1990 the petitioner Devaiah had kissed the young Girl Bharathi, who is studying in the High School. He caught hold of her and kissed her on her face. The young Girl had to participate cultural programme and did participated in the cultural programme of the School on 29-2-1990.

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This is a finding of fact which has been arrived at by the Tribunal holding that the evidence shows that the appellant before it have indecently behaved with the girl called Bharati by kissing her. It further found that the petitioner has tampered with his Service Register to correct the date of birth as 5-8-1943 instead of 5-8-1939 to gain four years of service. Taking into consideration the above evidence, the Tribunal found that the conduct of the petitioner was condemnable and deserved dismissal from service. As such disciplinary proceedings were initiated. If such kind of misbehaviour is encouraged in the institutions, the future generation children and girls and blossoming birds will be spoiled. The teachers if behave in such a fashion, to curb that malady dismissal of petitioner was very necessary the Tribunal observed. Feeling aggrieved from that order of the Tribunal, the petitioner has come up before this Court by way of revision under Section 115 of the Code of Civil Procedure.

I have heard Sri. B.B. Mandappa, learned Counsel for the petitioner as well as Sri.V.Jayaram, learned Government Advocate for the respondents.

The learned Government Advocate raised a preliminary objection regarding maintainability of revision itself and he submitted that the Educational Appellate

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Tribunal is not a Civil Court. When the District Judge is acting under the Act, he has been exercising jurisdiction as the Educational Appellate Tribunal and not a Civil Court. There appears much substance in the contention that the Tribunal is not a Civil Court and this revision petition is not maintainable.

The contention of the learned Counsel for the petitioner is that the findings of the Tribunal are based on misappreciation of facts and the age of the petitioner at the time of occurrence which was 57 or 58 years. Might be so. But the finding of the Tribunal in this case that after appreciation of evidence is the occurrence did take place on the date of the incident and the petitioner i.e., appellant before it had indecently behaved with a female student of grown up age though a minor by kissing her on the School Day Celebration. The learned Counsel tried to say that kiss might have been an elderly person's affection and appreciation in paternal way. I am unable to accept this contention. The Schools and Colleges are not meant for all such things and in particular for such a behaviour with female child the running age of puberty. Anyway leaving aside this particular case, it is to be taken that the situation in the institution may worsen and no body knows there may be harassment of female child in the schools and

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colleges. Apart from that finding, the petitioner has tampered with his Service Register to change the date of birth as 5-8-1943 instead of 5-8-1939 to gain four years of service. Taking this circumstance together the order of dismissal was passed. The findings even if based on misappreciation of facts or evidence cannot be said to amount to an error of jurisdiction or error apparent on the face of the record. I examined this matter, in my opinion, no case has been made out by the petitioner for interference with the impugned order either under Article 227 of the Constitution of India, or under Section 115 of the Code of Civil Procedure.

The revision petition as such is hereby dismissed.

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